

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARTIN J. WALSH,)	
SECRETARY OF LABOR,)	
U.S. DEPARTMENT OF LABOR,)	
)	
Plaintiff,)	CIVIL ACTION FILE
)	NO. 4:22-cv-3246
v.)	
)	
PACKERS SANITATION SERVICES,)	
INC., LTD.)	
)	
Defendant.)	

DECLARATION OF CRISTINA LOPEZ

I, Cristina Lopez, declare under penalty of perjury, as prescribed in 28 U.S.C.

§ 1746, that the following is true and correct:

1. I am an investigator for the United States Department of Labor, Wage and Hour Division's Sacramento District Office. I am an investigator assigned to assist with the investigation into the Defendant's compliance with the child labor provisions of the Fair Labor Standards Act ("FLSA").

2. I have been an investigator with the Wage and Hour Division for over nine (9) years. I have conducted 150 investigations as the lead investigator and assisted on 103 additional cases.

3. The statements made herein are based on my training and experience, my personal knowledge, observations made during the execution of the warrant involving Defendant (as discussed below), records reviewed, and conversations with representatives and employees of the Defendant in this matter.

The Defendant

4. Packers Sanitation Services, Inc., Ltd., which may also operate as or do business as Packers Sanitation Services, LLC, (“PSSI”) is a cleaning and sanitation company that provides contract work at meat processing facilities. The PSSI location at 515 W. 3rd Street, Grand Island, Nebraska 68801, is a workplace where it is believed that PSSI currently recruits and signs up employees to work for PSSI at a meat processing facility located at 555 South Stuhr Road in Grand Island. The meat processing facility is owned and/or operated by JBS USA or one of its affiliates (“JBS”).

The Investigative Findings

5. On August 24, 2022, the Wage and Hour Division initiated an investigation of PSSI to determine whether its practices complied with the FLSA, including its child labor provisions.

6. Prior to opening its investigation, Wage and Hour received a referral about possible child labor violations by PSSI in Grand Island from another law enforcement agency.

7. On October 12 and 13, 2022, I conducted surveillance at 555 South Stuhr Road in Grand Island with Deputy Director of Enforcement (“DDE”) Nancy Alcantara. I observed groups of workers leaving the JBS facility and going to their cars in the parking lot, including three individuals who appeared to be potential minors. Two males appeared to be teenagers and were observed walking alone into the parking lot. At around 12:47 a.m. on October 13, 2022, a small girl wearing a pink jacket and pink pants was observed walking from the JBS facility into the parking lot. The girl appeared to be a child or

teenager, had a small build, and was thin. The small girl walked closely with an older woman, and both entered a vehicle that had been waiting in the parking lot.

8. Wage and Hour obtained warrants from U.S. Magistrate Judge Michael D. Nelson in the District of Nebraska authorizing Wage and Hour to inspect and enter PSSI's storefront facility at 515 W. 3rd Street and the beef production facility at 555 South Stuhr Road, and "to make an inspection and investigation into violations of the Fair Labor Standards Act, including child labor violations[]" including, but not limited to, "time records of PSSI workers and/or employees, identification documents and records reflecting the age of workers and employees of PSSI, tax records, PSSI corporate records, surveillance videos, and other records or documents as the investigators may deem necessary or appropriate." The warrant also allowed for "questioning privately any employee or agent, and the taking of photographs and videos."

Execution of the Warrants

9. On October 13, 2022, Wage and Hour executed the warrants on the JBS storefront and at the JBS facility during the workers' shift. I arrived at the JBS facility around 2:15 a.m. Deputy Director of Enforcement Nancy Alcantara, Regional ATV Coordinator Shannon Rebolledo, and Wage and Hour Investigators ("WHI") Thomas Phelan, Fatmir Kote, Edith Cardenas-Michmerhuizen, and Xiomara Martinez accompanied me for the inspection, as discussed below.

Observations at the JBS Facility

10. Between 2:15 a.m. and 2:20 a.m., I took photographs of eight (8) pages of "plant 112 employee" sign-in sheets at the guard station.

11. I went to the second floor of the JBS facility and met PSSI Supervisor Marina Ramirez, PSSI Supervisor Gregorio Acosta, PSSI Supervisor Pedro Montanez, and a JBS employee.

12. Around 2:25 a.m., PSSI Supervisor Ramirez gave me a tour of the cafeteria. PSSI Supervisor Ramirez explained that employees clock in and clock out using an Asure biometric time clock, perform warm-up exercises (perform stretches as a group in the cafeteria before starting their normal cleaning duties), and take their lunch in the cafeteria.

13. PSSI Supervisor Ramirez explained the harvest side (kill floor) was on the side nearest the men's locker room, and that the fabrication side was on the other side (nearest to the women's locker room).

14. I took photographs of the cafeteria area, Asure time clock, PSSI Training Whiteboard, PSSI accident tracker posting, and a PSSI Documentation filing cabinet.

15. A JBS employee explained that PSSI workers could be identified by their green aprons (waterproof overalls). He added that the PSSI hardhats might only indicate "PSSI" and have no nametag on them, whereas JBS employees wore hardhats that had the employee names on them.

16. A JBS employee provided me and WHI Cardenas-Michmerhuizen with hair nets, ear plugs, and hard hats. We donned the safety gear and proceeded to take a tour of the fabrication side of the plant with PSSI Pedro Montanez.

17. From 2:53 a.m. to 3:17 a.m., I took three (3) photographs and seven (7) videos while on tour in the fabrication side.

18. On the fabrication side, WHI Cardenas-Michmerhuizen and I toured the packing area, new fabrication, meat master room, 50-50 area, and ground beef room.

19. Due to time constraints, we did not visit the old fabrication area or the loin room on the fabrication side.

20. In the pack-off area, PSSI Supervisor Montanez indicated there were about twenty (20) PSSI employees working. I observed and recorded video of access machines that are meant for sealing plastic bags and conveyor belts that move packages of meat. Employees were on step 2 (pre-rinse) when we arrived. Before we left the room, PSSI employees started step 3 (foaming) of PSSI's 8-step sanitation process.

21. I observed and recorded video of many of the machines and conveyor belts that were in operation while they were being cleaned by PSSI sanitors on the fabrication side of the plant. These included conveyor belts that need to be cleaned during the third shift after the JBS employees cut, saw, debone, blend, and/or grind raw meat on the first and second shifts.

22. I observed and recorded video of PSSI sanitors using power-driven pressure washers to clean and foam the area's machines, conveyor belts, floors, and rooms they cleaned.

23. I observed and recorded video of high quantities of water on the floor, and steam in the air as I walked through the fabrication side of the plant.

24. I observed inedible animal products like scrap meats, fats, and oils on the floor and handrails. I also observed other waste products like cardboard and paper products on the floor.

25. I observed employees using the power-driven pressure washer to push the waste on the floor together into groupings.

26. I observed and recorded video of employees operating, cleaning, and reassembling conveyor belts.

27. I observed employees working on the floor and on elevated surfaces like seven-step platform ladders and on top of conveyor belts.

28. I observed and recorded video of employees scrubbing equipment by hand.

29. Around 3:25 a.m., I interviewed a PSSI sanitor-trainer employee (“PSSI Sanitor #1”). PSSI Sanitor #1 stated:

- a. New hires go through a four-week training program. For the first two weeks, trainees observe how PSSI Sanitors perform the work. In the third week, trainees scrub and clean alongside PSSI Sanitors. In the fourth week, trainees clean half of the area on their own.
- b. PSSI Sanitor #1 works from 11:05 p.m. to 7:00 a.m.
- c. The cleaning agents used include bleach, 578, soap, acid 400.

30. Around 4:00 a.m. I interviewed a different PSSI sanitor (“PSSI Sanitor #2”). I observed and PSSI Sanitor #2 confirmed that PSSI Sanitor #2 had suffered facial chemical burns because of the strong cleaning agents used to perform their work as a sanitor. Specifically, PSSI Sanitor #2 told me cleaning agent 568 caused the chemical burn. Additionally, PSSI Sanitor #2 stated they:

- a. Work as a sanitor in the pack-off area.
- b. Use a pressure washer to push garbage together into groupings.
- c. Clean conveyor belts.
- d. Use cleaning agents including bleach, 568, and acid.
- e. Work from 11:10 p.m. until 6:40 a.m.

f. Work 6 to 7 days a week.

g. Are a student at Grand Island Senior High School.

31. Around 6:00 a.m. I interviewed a PSSI sanitor-in-training, Sanitor #3. I also took a photograph of PSSI Sanitor #3 with their permission.

32. I obtained the name, phone number, and email for PSSI Sanitor #4, who was sitting in the cafeteria.

33. From 7:00 a.m. to 7:30 a.m., I observed PSSI employees were waiting in the cafeteria. My understanding is that the PSSI employees had completed their work as sanitors and had doffed their safety gear and changed into their streetwear.

34. Around 7:00 a.m., I observed PSSI Supervisor Ramirez talking to a group of four to six young employees seated in the cafeteria. The employees looked like they were possibly teenagers. I could not hear their conversation.

35. I approached two groups of employees who appeared to be teenagers. I asked the employees if they had already been interviewed and they stated that they had.

36. I asked three male employees who appeared to be teenagers what they had been interviewed about and they said they had been interviewed regarding the work they did. I asked they provide their names, and they did not want to do so. I offered to provide a fact sheet regarding the prohibition on retaliation and they said they did not want it, so I did not provide it and did not seek further information from them.

37. Around 7:05 a.m., I obtained the name, phone number, and email of Minor Child L. I observed that the email address provided included a different name than the name Minor Child L provided me. I observed that Minor Child L appeared young. I asked whether Minor Child L was currently enrolled in school, and Minor Child L responded no.

At 7:06 a.m. I sent Minor Child L a picture of my business card and confirmed Minor Child L received it on their cell phone. Minor Child L stated that their ride was waiting in the parking lot, so we did not continue the interview.

38. Around 7:25 a.m., I approached a PSSI sanitor (“PSSI Sanitor #5”) who appeared to be of middle school or high school age. I asked PSSI Sanitor #5’s name, and he did not want to provide it, so I did not speak to the employee further. Around 7:28 a.m., I approached PSSI Supervisor Montanez and asked him to identify PSSI Sanitor #5. PSSI Supervisor Montanez showed me the employee list, and stated PSSI Sanitor #5 was on the list, but said he did not know PSSI Sanitor #5’s name. PSSI Supervisor Montanez said we could identify PSSI Sanitor #5’s name based on the employee ID number when the worker clocked out. At 7:29 a.m. I recorded a twelve (12) second video of PSSI Sanitor #5 clocking out using the Asure biometric time clock. The employee entered an ID number. The biometric time clock then took a picture of the employee’s face with his mask down.

39. Around 7:45 a.m. I asked PSSI Supervisor Montanez to provide an overview of the different rooms that we toured on the fabrication side. I noted the name of the different rooms, the number of workers per room, and the number of machines per room that PSSI Supervisor Montanez described.

40. PSSI Supervisor Pedro Montanez stated that during the tour:

- a. We started in the pack-off area where there were 22 workers cleaning nine machines and about 150 conveyor belts. The machines are used to seal bags of meat during the day shift.
- b. In “new fabrication” there were seventeen workers cleaning four tables that are used to cut meat with a knife. There are also about five saws

in the room to cut the meat.

c. In the “meat master” room, there were ten workers cleaning about thirty to forty conveyor belts.

d. In the “50-50” room, there were ten workers and about fifteen conveyor belts. The conveyor belts are called “50-50”, which is why the room is named the “50-50” room.

e. In the “ground beef” room, there were eleven workers cleaning machines that grind the meat. The machines are called blenders, auger, and conveyor belts.

41. PSSI Supervisor Montanez added the areas we did not tour included:

a. The “old fabrication” areas where there were 31 workers cleaning four tables where workers cut meat and about sixty conveyor belts.

b. The loin room where there were fifteen workers cleaning two tables and thirty conveyor belts.

42. Around 7:55 a.m., I asked PSSI Supervisor Montanez to show me the PSSI Fabrication Nightly Log and PSSI Kill Floor Nightly Log Information sheets that he had with him.

43. Around 8:00 a.m. PSSI Supervisor Montanez pulled binders from the PSSI Documentation file cabinet to give us access. Those records included: PSSI Detergent Titration Logs, Certificate of Liability Insurance, Master Sanitation Schedule, Personal Protective Equipment Checklist, Equipment and Tool Accountability Forms.

44. I witnessed WHI Fatmir Kote ask PSSI Supervisor Montanez to provide incident/accident reports. Montanez explained that he did not feel comfortable providing

the records because a PSSI manager should provide those records. I explained to Montanez that WHI Kote had been sent by PSSI Supervisor Ramirez, who directed WHI Kote to ask Montanez for the records. I also reminded Montanez that we had a warrant. Montanez refused to provide the accident reports even though he acknowledged that PSSI Supervisors Ramirez and Acosta had already left the building, and he was the sole remaining PSSI employee on site at the time. I am unclear if the incident/accident report records were physical or electronic documents.

45. As part of this investigation, I reviewed some publicly available information about PSSI, including a “New Applicant [English]” video uploaded to PSSI’s YouTube page. In the video, it states sanitors “work with and around dangerous machinery, use strong chemicals, work at elevated heights, and maintain a constant awareness at all times.” See video at 2:34, available at <https://www.youtube.com/watch?v=9qBQiZSLINw>.

Interviews with Minor Children

46. Of all employees interviewed, four workers are currently under the age of 18. Nine workers are currently over the age of 18 and no longer in violation of child labor provisions. However, these nine workers began with PSSI when they were under the age of 18.

47. PSSI sanitors wore a green raincoat and green waterproof overalls, goggles, gloves, hard hats of assorted colors with no name tags on them, a padlock, yellow sleeves, and earplugs. Some PSSI sanitors also wore an orange harness.

48. JBS employees did not wear green raincoats or green waterproof overalls, and their hard hats had tags on them listing their names.

49. I speak and write Spanish fluently. As the employees I interviewed were not fluent English language speakers, I conducted my interviews in Spanish. I took notes of the interviews and of my observations in English and/or Spanish.

50. In general, the minor children cleaned work rooms on the fabrication side of the plant or on the kill floor. I toured the fabrication side, and the work I observed employees doing included cleaning the floors and cleaning the machinery in the rooms, such as conveyor belts and machinery used to grind meat into ground beef. The tools the employees used to perform the cleaning work included high-pressure washers, nozzles, detergents, scrub pads, and buckets.

51. I, Wage and Hour Investigator Cristina Lopez, interviewed Minor Child L.

Minor Child L

52. On October 13, 2022, around 7:00 a.m., I approached Minor Child L, as they appeared to be a minor based on appearance.

53. I asked Minor Child L for their contact information, including their name and email address. Minor Child L provided an email address.

54. Minor Child L denied being currently enrolled in school.

55. I asked Minor Child L if they had time for an interview, and Minor Child L replied that they did not because their ride was waiting in the parking lot. As such, the interview did not continue.

56. Later, I reviewed Equipment and Tool Accountability Form dated 10-10-2022, and Personal Protective Equipment Checklist. From those documents, I could determine Minor Child L worked as a sanitor for PSSI in the loin room. To perform cleaning duties in the loin room, Minor Child L was provided one scrub pad, one nozzle,

and one bucket by a PSSI supervisor. Minor Child L was also provided safety glasses, a hard hat, goggles, green gloves, a padlock, boots, rain pants, raincoat, sleeves, and earplugs by the same PSSI Supervisor.

57. Based on the information provided by PSSI Supervisor Montanez, the duties in the loin room include cleaning two tables and thirty conveyor belts.

58. Based on school records, Minor Child L's phone number and email address were used to determine that Minor Child L is a student at Grand Island Senior High School.

59. Based on school records, including Minor Child L's birth certificate, Minor Child L was 17 years old when they worked the third shift at the JBS facility on October 13, 2022.

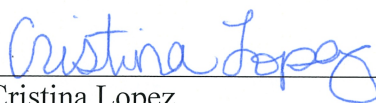
60. Based on "PSSI Clean-up Equipment List – Grand Island" I reviewed on October 21, 2022, the loin room is cleaned using a mixture of KC568, 615 and 262, a mixture of 568 and 262, acid 644, 631 or 610/sanitizer 615 or 645. The equipment listed in the loin room includes: three buster saws to cut product, twenty-five trim conveyors to transfer trim products, kidney fat puller to pull meat off sides, scissor chain to move cattle, various saws to cut product, and conveyors to transfer parts of the carcasses.

Additional Information

61. When a worker first clocks-in, their face is visible and captured by photograph on the biometric time clock. This occurs when workers are dressed in normal street wear and have not yet donned any safety gear. Twice daily, supervisors review that each employee has donned and doffed: safety glasses, a hard hat, goggles, gloves, padlocks, boots, rain pants, raincoat, sleeves, and earplugs. This includes checking-off about twenty times per employee per workday that all personal protective equipment is in working order.

Supervisors then hold a daily meeting to perform warm-up stretches with the employees and discuss safety reminders with the workers. Twice daily, supervisors track the exact number of scrub pads, nozzles, flashlights, scrapers, buckets, picks, and brushes provided to and returned by each individual worker. Supervisors fill out nightly fabrication and kill floor logs where they handwrite the names of any employees who failed to show up for their shift. Further, PSSI supervisors provide between eleven and sixteen trainings of fifteen minutes each to employees on the topics of: good manufacturing practices, chemical handling, 8 steps of sanitation, HAACCP review, bacteria control, foreign materials, allergen awareness, food defense, chemical security, chemical titration, color code, sanitizer rotation, and visual inspection. Lastly, upon hire, PSSI sanitors spend four weeks working alongside PSSI trainers.

Executed on this 2nd day of November, 2022.


Cristina Lopez
Wage and Hour Investigator